

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS for SB 2796 and CS/SB 1418

SPONSOR: Committee on Criminal Justice, Senators Sebesta, Aronberg, and Campbell

SUBJECT: Cruelty to Animals

DATE: April 20, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable (SB 2796)</u>
2.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS (SB 1418)</u>
3.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/Combined CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Section 828.12, F.S., is amended to increase the minimum fine from \$2,500 to \$5,000 in cases of knowing and intentional torture that injures, mutilates, or kills the animal and provides for 6 months in jail in such a case. Where an offender is before the court for sentencing on a second or subsequent felony violation of s. 828.12, F.S., the jail time is increased from 6 months to 10 months.

It creates a prohibition against intentionally dragging or felling by the tail a bovine animal in an organized sports exhibition and makes a violation a misdemeanor of the first degree. The bill designates the current misdemeanor violation of the prohibition against simulated or bloodless bullfighting exhibitions a misdemeanor of the second degree.

The bill specifically excludes rodeo and animal husbandry practices that are not otherwise prohibited by law from the provisions in section 2 of the bill.

This bill substantially amends the following sections of the Florida Statutes: 828.12 and 828.121.

II. Present Situation:

A person commits a misdemeanor of the first degree, punishable by up to one year incarceration or a fine of not more than \$5,000 or both, if he unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter or unnecessarily mutilates, or kills an animal. s. 828.12(1), F.S. Deprivation of medical attention or sanitation are not currently specified elements of the crime.

A person commits a felony of the third degree, punishable by up to five years imprisonment or by a fine of not more than \$10,000 or both, for an intentional act which results in the cruel death of an animal, or excessive or repeated infliction of unnecessary pain or suffering on an animal. s. 828.12(2), F.S.

The Legislature amended the felony provisions in 2002 to include a minimum mandatory fine of \$2,500, and psychological counseling or an anger management treatment program where it is found that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal. s. 828.12(2)(a), F.S. Further, if a person commits a second or subsequent felony offense of cruelty to animals, a minimum fine of \$5,000 and six months in jail are required as part of the sentence. s. 828.12(2)(b), F.S.

It has been reported that a sport known as bulltailing is being conducted in Florida. From information gathered, the activity consists of two horse-mounted contestants chasing a bull up and down an oblong arena, competing to flip the animal over by using its tail. In the process of jerking the animal (through the accelerated speed of the horse) off its feet, the animal is often jarred to the point of disorientation, tails are broken, and sometimes even legs. The animal is prodded with a shocking device to force it to its feet, injuries notwithstanding, so that it can be forced to the ground repeatedly. The apparent object of the sport is to score points by felling the animal a certain number of times within a certain limited time period.

Purposely tripping or felling a horse by its legs is currently punished as a third degree felony in Florida. s. 828.12(4), F.S.

It is a misdemeanor of an undesignated degree to conduct a simulated or bloodless bullfight in Florida. *C.E. America, Inc. v. Antinori*, 210 So.2d 443 (Fla. 1968). The crime has existed since 1971, although it has never been specified as a first or second degree misdemeanor – the statute simply states that it is “punishable as a misdemeanor.” s. 828.121, F.S.

III. Effect of Proposed Changes:

Section 828.12, F.S., is amended to increase the minimum fine from \$2,500 to \$5,000 in cases of knowing and intentional torture that injures, mutilates, or kills the animal and provides for 6 months in jail in such a case. Where an offender is before the court for sentencing on a second or subsequent felony violation of s. 828.12, F.S., the jail time is increased from 6 months to 10 months. Language is deleted from s. 828.12(2)(b), F.S., which usually applies to state prison sentences, while the penalties set forth in that section will most likely be limited to county jail time.

The bill amends s. 828.121, F.S., to define the term “bovine animal” to mean an animal of the subfamily bovine and includes, but is not limited to, a steer, calf, bull, ox, heifer, or cow.

It creates a prohibition against intentionally dragging or felling by the tail a bovine animal in an organized sports exhibition and makes a violation a misdemeanor of the first degree. The bill designates the current misdemeanor violation of the prohibition against simulated or bloodless bullfighting exhibitions a misdemeanor of the second degree.

The bill specifically excludes rodeo and animal husbandry practices that are not otherwise prohibited by law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An offender who has committed felony violations of the laws against animal cruelty will pay higher fines.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections.

The Department's Bureau of Research and Data Analysis reports there were 58 admissions to community supervision and 18 admissions to prison for law violations which included felony animal cruelty during the fiscal year 2002-2003.

A term of incarceration of one year or less, is served in county jail. The provisions of the bill which create and increase mandatory minimum terms of incarceration, should result in offenders being sentenced to 6 or 10 months incarceration where they would have otherwise served less or no time in jail and therefore have some minimal impact on the county jail population.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
